UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,968	11/17/2005	John Edward Schoen	E3331.0662	9100

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EXAMINER
BAIRD, EDWARD J

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>14 July 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-44</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-44</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible

for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has

been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37

CFR 1.114. Applicant's submission filed on **14 July 2009** has been entered.

Status of Claims

2.   Applicant has amended claims **1, 7 – 11, 38 and 44**. No claims have been added or

canceled. Thus, **claims 1 – 44** remain pending and are presented for examination.

3.   Examiner acknowledges Applicant initiated interview via telephone on 05 August 2009 to

clarify invention and claims.

Response to Arguments

4.   Applicant's remarks/ arguments filed **14 July 2009** have been fully considered.

5.   Examiner acknowledges amendments to claim 36 to overcome 35 U.S.C. § 112, 2nd

paragraph rejection and, in turn, withdraws rejection.

6.   Examiner acknowledges amendments to claim 38 to overcome objection and, in turn,

withdraws objection

7.   Examiner acknowledges amendments to claims 1 and 44 to overcome 35 U.S.C. § 101

rejections to claims 1 – 13 and 44 and, in turn, withdraws rejection.

8.   Applicant's arguments with respect to claims 1 – 44 to overcome 35 U.S.C. § 103(a)

rejections have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

9.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10.   Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11.   Regarding **claim 31**, it is unclear if *prime broker participants* are the same as *participants*.

        For purposes of examination, the claim will be interpreted to read:

        A system according to claim 30, wherein the prime broker credit limit store stores credit limits from a plurality of [~~prime broker~~] participants and the matching engine matches orders between participants using credit from a chain of two or more prime brokers, a first of said having bilateral credit with the participant submitting one side of the matched order and a second of said chain having bilateral credit with the participant submitting the other side of the matched order.

        Appropriate correction is required.

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13.   Claims 1 – 8, 14 – 21, 23 – 29, and 32 – 38 are rejected under 35 U.S.C. 103(a) as

being unpatentable over **Buist et al** (US Pub. No. 2002/0035534) in view of **Silverman et al**

(US Patent No. 5,136,501)

14.   Regarding **claims 1, 14, 23 and 32**, **Buist** discloses a system and method for

conducting an on-line auction of securities [0009]. He discloses receiving orders and

maintaining order books over a computer network [0024 and claim 2]. **Buist** teaches:

- one or more computers of the system notifying potential participants of an auction

  time [see at least 0011, 0052, 0061, and Figure 2];

- one or more computers of the system receiving from participants orders related to

  the auction [see at least 0053 – 0056 and Figure 2];

- one or more computers of the system conducting the auction at the time notified to

  the participants by matching the orders received [see at least 0053 and 0057];

- notifying the owners of matched orders [see at least 0012 and 0047].

   Examiner note that *allocating units of a security* is indicative of Applicant's **notification**

of matched orders;

   Buist does not explicitly disclose:

- one or more computers of the system receiving from participants **credit limits** for

  execution of orders input by the participants with other participants;

- one or more computers of the system notifying the participants of credit allocated to

  the auction but not used in matched orders.

   However, **Silverman** teaches *matching systems for effectuating trades of trading*

instruments . . . in which buyers and sellers. . . trade with one another based on specified

criteria, such as price, quantity and credit, [column 1 lines 17 – 26]. He discloses a trading

system which consists of a host computer, a transaction originating keystation for providing a

bid on a given trading instrument to the system for providing the potential matching transaction,

a counterparty keystation for providing an offer on the given trading instrument involved in the

potential matching transaction, and a network for interconnecting the host computer, the

transaction originating keystation, and the counterparty keystation for enabling data

communications between each other [column 3 lines 39 – 52].

Silverman teaches a *messaging* in the system [see at least column 14 line 42 – column

16 line 23, and Figure 6]. Further, **Silverman** discloses a *credit control function* of the system

[column 18 line 10 – column 19 line 68].   He discloses assigning credit limits by individual

keystations or client sites [column 18 lines 23 – 35]. He discloses a *credit alert threshold* which,

when the remaining credit goes to a particular value (here, 25% of the original value of the credit

limit), an alert is sent out to anybody with permission to modify the limit [column 19 lines 33 –

57]. Examiner notes that *alerting participants of remaining credit* in trading processes is

indicative of Applicant's **notifying the participants of credit not used in matched orders**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time

of the instant invention to modify **Buist's** disclosure to include *alerting participants of remaining*

credit as taught by **Silverman** because it informs a particular keystation (i.e. client site) that it is

trading dangerously low to the assigned credit limits it has given, and that those limits are going

to start blocking or inhibiting trades if nothing is done about changing them [**Silverman** column

19 lines 40 – 44].

15.   Regarding **claims 2 and 15, Silverman** teaches orders which are matched on the basis

of credit and price [see at least column 7 lines 13 – 15].

16.   Regarding **claim 3 an 33, Buist** teaches orders receiving less than a predetermined

time before the auction as not being accepted [see at least 0012].

17.   Regarding **claim 4 and 34**, **Silverman** teaches credit limit allocations received less than a predetermined time before the auction are not accepted by the system [see at least column 3 lines 18 – 27 and column 19 lines 36 – 44]].

18.   Regarding **claim 5, 6, 20, 21, 28, 29, 35 and 36**, **Silverman** teaches participants being notified of unused credit *immediately* or *within one minute* after the auction is completed [see at least column 19 lines 33 – 68]. Examiner notes that *real time credit* is indicative of Applicant's **immediately** or **within one minute** after auction completion.

19.   Regarding **claims 7, 16, 25 and 37**, **Buist** teaches notifying participants of one or more instruments to be auctioned and the minimum order amount [0052]. Examiner notes that *minimum prices* is indicative of Applicant's **minimum order amount**.   Also, **Buist** discloses the *market manager* [see at least 0018 – 0022] and *market administrator* [see at least 0018 – 0027] which have analogous functions of Applicant's **system administrator** (claim 16), and **auction administrator** (claim 25).

20.   Regarding **claims 8, 17, 26 and 38**, **Silverman** teaches automatically renewing a participants credit limits for future auctions on request from that participant [see at least column 3 line 60 – column 4 line 5].   Examiner notes that *resetting trading credit party limits* as inclusive of Applicant's **automatically renewing a participants credit limits**.

21.   Regarding **claims 18 and 24**, **Silverman** teaches notification of matched order messages being sent to a participant deal feed client via a deal feed server [see at least column 8 lines 31 – 58, and Figure 2].   Examiner interprets *ticker* as analogous to Applicant's **deal feed server**.

22.   Regarding **claims 19 and 27**, **Silverman** teaches submitting **limit orders** [column 20 lines 58 – 67].

23.   Claims 9 – 13 and 39 – 43 are rejected under 35 U.S.C. 103(a) as being unpatentable

over **Buist** in view of **Silverman** in further view of **Wilton et al** (US Patent No. 6,519,574).

24.   Regarding **claim 9 – 11 and 39 – 41,** neither **Buist** nor **Silverman** explicitly discloses:

- receiving from participants credit limits for use in matching orders between other

participants lacking bilateral credit.

- receiving from participants an identification of other participants whose credit limits

may be used to match orders entered by the participants.

- matching orders received from participants who do not have bilateral credit, using the

credit of an intermediary having bilateral credit with the participants submitting the

matched order.

However, **Wilton** teaches *an electronic trading system which automatically identifies*

arbitrage opportunities arising from price anomalies that arise due to credit discrepancies within

a market [column 2 lines 45 - 49]. He further discloses *an electronic trading system which is*

capable of performing an automatic, instantaneous name switch operation whereby a less

credit-worthy trading entity uses the credit lines of a more credit-worthy trading entity to execute

a desired transaction which would not be otherwise available to the less credit-worthy trading

entity due to lack of bilateral credit availability [column 2 lines 57 – 64]. He discloses *credit*

entities which may extend individual credit limits to different branches of a financial institution

[column 5 lines 13 – 29]. Examiner interprets such *credit entities* as analogous to Applicant's

intermediary having bilateral credit with the participants submitting the matched order.

Therefore, it would have been obvious to one having ordinary skill in the art at the time

of the instant invention to modify **Silverman's** disclosure to include *using credit entities to*

provide credit to participants lacking bilateral credit as taught by **Wilton** because they allow less

credit-worthy trading entities to use the credit lines of more credit-worthy trading entities to

execute desired transactions [**Wilton** column 2 lines 57 – 64].

25.   **Claims 12 and 13** are substantially similar to claim 11, the claim upon which they

depend and are thus, rejected for the same reasons.

26.   **Claims 42 and 43** are product claims parallel to method claims 12 and 13, respectively,

and are thus, rejected for the same reasons.

27.   Claim 22 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist**

in view of **Silverman** in further view of **Keith** (US Pub. No. 2002/0091617).

28.   Regarding **claims 22 and 30**, neither **Buist** nor **Silverman** explicitly discloses receiving

messages at the computerized trading system notifying the system of credit limits for use in

providing bilateral credit for trades between third parties where no bilateral credit exists between

the third parties.

However, **Keith** discloses general purpose computer or network of computers

programmed in accordance with his trading processes and functions as a platform for allowing

electronic liquidity finder (ELF) programs and **umpire programs** to interact [0041]. He further

describes an order umpire program which is coupled to exchange through mirror ELF program

that serves to pass messages between exchange and umpire. Order umpire program is also

connected to external point for reporting trades as appropriate, to an external point not coupled

via a mirror ELF [0051]. He further discloses service umpires which may perform credit

checking, certification and/or clearing [0154]. Examiner interprets umpires, *service umpires* in

particular, as analogous to Applicant's **third party** for tracking credit limits and providing

bilateral credit between third parties. Also, message transmission between parties is inherent in **Keith's** process.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the instant invention to modify **Silverman's** disclosure to *use umpires in notification of credit limits for use in providing bilateral credit for trades between third parties* as taught by **Keith** because umpires can aggregate and analyze data from a variety of sources and continuously produce the results of such analysis for a user [**Keith** 0152].

29.   Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist** in view of **Silverman** in further view of **Keith** in further view of **Wilton**.

30.   Regarding **claim 31**, neither **Buist, Silverman** nor **Keith** explicitly discloses:

- the prime broker credit limit store stores credit limits from a plurality of prime broker [sic] participants and the matching engine matches orders between participants using credit from a chain of two or more prime brokers, a first of said having bilateral credit with the participant submitting one side of the matched order and a second of said chain having bilateral credit with the participant submitting the other side of the matched order.

However, **Wilton** teaches *credit entities which extend individual credit limits to each branch of a financial institution* [column 5 lines 13 – 29]. Here, Examiner interprets such *credit entities* as analogous to Applicant's **prime broker** and *individual credit limits* as being indicative of Applicant's **participants**. Examiner notes that while **Wilton** does not disclose a chain of *two* (emphasis added) or more brokers, it would have been obvious to do so.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Silverman's** disclosure to include *using credit entities to*

provide credit to participants lacking bilateral credit as taught by **Wilton** because they allow less

credit-worthy trading entities to use the credit lines of more credit-worthy trading entities to

execute desired transactions [**Wilton** column 2 lines 57 – 64].

> Thus, this claim is rejected for the same reasons as claims 9 –11 and 39 – 41.

31.   Claim 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Buist** in view

of **Silverman** in further view of **May** (US Patent No. 6,317,727) and **Official Notice**.

32.   **Claim 44** is substantially similar to claim 1 with added limitations. In view of the added

limitations, neither **Buist** nor **Silverman** in explicitly discloses:

- fixing benchmarks for the instrument to be traded at intervals during the trading day, and

- receiving from participants orders to trade at a benchmark price.

However, May teaches providing improved credit screening for electronic trading

systems [column 5 lines 40 – 42]. He teaches hedging with the newest or *benchmark* issues

when trading U.S. treasury bonds [column 41 lines 11 – 29].

> Therefore, it would have been obvious to one having ordinary skill in the art at the time

of the instant invention to modify **Silverman's** disclosure to include *hedging with benchmark*

issues as taught by **May** because, if a trader is asked to buy an old issue, then the trader can

sell the benchmark as a hedge since the benchmark has the liquidity [**May** column 41 lines 11 –

29].

> **May** does not explicitly disclose intervals during the trading day.

> Examiner takes **Official Notice** that one having ordinary skill in the art at the time of the

instant invention would modify **May's** disclosure to include the use of *trading intervals during the*

course of a day because such a method, if automated using a computerized system, would

allow trading of benchmark securities over the course of a day as market conditions change.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can

normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://portal.uspto.gov/external/portal/pair. Should you have questions on access to

the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service Representative or access to

the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/
Examiner, Art Unit 3695

/Charles R. Kyle/
Supervisory Patent Examiner, Art Unit 3695